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Stop the retreat from the First Amendment

Justice Oliver Wendell Holmes said that the First Amendment does not guarantee the right to yell "Fire!" in a crowded theater when there is no fire. When there is no clear and present danger, however, the right to freedom of speech and information is an absolute guarantee of the First Amendment. It is the ground on which American freedom rests, the basis of democracy itself.

Three recent events (reported in The Globe on the same day) have led me to wonder whether we should not be seriously concerned that this right is being eroded by thoughtless private citizens and fearful public servants.

It is obvious that the Board of the Boston Symphony did not use the best political judgment in inviting Vanessa Redgrave to perform in "Oedipus Rex." One wonders whether the production would have been memorable enough to overshadow the inevitable protests generated by her political beliefs. To me, as to many others, the Palestine Liberation Organization is a highly objectionable entity, which bears a major responsibility for the continuing turmoil in the Mideast.

That being said, however, an offer was made and a contract signed. To back down on the agreement under pressure from a segment of the public is a violation of 2000 years of contract law. It can be argued that there is an implied threat to the First Amendment as well.

Ian Paisley is another whose political philosophy and activities are objectionable to many, myself included. Though perhaps not to the same degree as the Irish Republican Army, the Rev. Paisley is responsible for the continuing rigidity of the positions of the contending parties and hence for the continuing bloodshed in Northern Ireland. Yet that having been said, for the State Department to refuse him a visa to enter the United States after he had been invited to speak at Bob Jones University is a violation of our long tradition of academic freedom and of the First Amendment.

President Reagan's new secrecy rulings have reversed a 20-year effort of previous Administrations to identify clearly and precisely information related to national security, and in light of the public right to be informed to restrict classification to those documents where disclosure would be an identifiable danger to national security. The new rules have extended the definition of classifiable data to the point where classification could be applied to maps of the interstate highway system. The new rules would drop the "public interest" provision, under which certain national security information could be made public if the disclosure were deemed to be in the public interest. They would drop the requirement for a six-year review of a document's classification. They would provide that where there is any doubt, a document must be classified. They would expand classification powers to the work of any scientists in any field who are operating in universities under federal grants after the grant has been awarded and the work done but not published.

The federal government has the duty under the Constitution to provide for the common defense. At times, this certainly requires putting the most careful guard over information that, if known to an enemy, would offer clear and present danger to the nation. That being said, however, extending the cloak of secrecy to information with only the vaguest connection (or none at all) to national defense speaks more to a fear of informed Americans than of informed opponents. It is a retreat from the spirit and intent of the First Amendment.

As a university president, I know the problems that can arise when strong and unpopular views are presented to a large audience. Nevertheless, in the past academic year a representative of the PLO which is, in fact, nothing but a terrorist organization, and a representative of the JDL, which is seen by the public as often close to a terrorist action group, have spoken on Tufts' campus. The university administration had faith in the maturity and good sense of our students, and it was well placed. The meetings were well attended, the audience was courteous and there were no incidents.

It appears to me that instead of repeating the mistakes of the McCarthy era, private citizens could do worse than to emulate these young people and remember that the principle of free thought extends to freedom for the thought we hate. Public servants could keep in mind the words of our third President, Thomas Jefferson: "I know of no safe depository of the ultimate powers of the society but in the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion the remedy is not to take it from them but to inform their discretion."

Jean Mayer is president of Tufts University.